

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CRIMINAL #03-10361-RWZ-03

UNITED STATES

v.

SCOTT FINK

**DEFENDANT SCOTT FINK'S MOTION
TO CONTINUE SENTENCING HEARING**

The defendant Scott Fink moves that his sentencing hearing be postponed from November 16, 2005 until sometime after the first of December. In support of this motion, the defendant states:

1. The defendant has pled guilty to conspiracy to distribute cocaine and is scheduled for sentencing on September 14, 2005. According to the government, the defendant was a "runner" for the Melo drug group for a five week period in 2003, distributing "eight balls" (individual packets of 3.5 or 4.0 grams of powder cocaine) to Melo's customers. The initial presentence report calculated the defendant's guideline sentencing range as 262 to 327 months. The defendant has filed objections, challenging both the drug quantity and the criminal history calculations.
2. The defendant has challenged several of his convictions in the Fall River District Court that have the potential to dramatically increase his guideline sentence. District Court Judge Gilbert Nadeau has scheduled a hearing on those motions of November 21, 2005. The

defendant tried to have the hearing on November 4, which would have enabled the scheduled November 16 sentencing to go forward. However, the state authorities refused to transport the defendant from the federal courthouse to the Fall River District Court. At the November 4 hearing, Judge Nadeau rescheduled the matter for November 21 and stated that he would order the appropriate state authorities to bring Mr. Fink to the state courthouse on November 21, and return him to federal custody at the conclusion of proceedings on that date.

3. Because the defendant has challenged the constitutionality of his underlying state court convictions, fairness requires that the Court continue his sentencing so that a ruling can be obtained before sentence is imposed in federal court.
4. The defendant does not believe that this issue affects the sentencing of any other defendant.

Respectfully submitted,

SCOTT FINK

By his attorney,

/s/ Charles W. Rankin

Charles W. Rankin, BBO #411780
Rankin & Sultan
151 Merrimac St., 2nd floor
Boston, MA 02114-4717
(617) 720-0011